

Waste Management Licensing Exemptions: a Codification

The Scottish Environmental Services Association (SESA) is the sectoral trade association representing Scotland's managers of waste and secondary resources.

SESA's Members provide essential waste and secondary resources management services to the public and private sectors across Scotland. We want to build our industry's future not on rising quantities of waste but on managing more waste as a resource by recovering secondary materials and energy.

SESA welcomes the formal codification of exemptions under Schedule 3 into one clear and concise document. The consolidation of existing legislation should improve SEPA's approach to the regulation of exemptions and increase operators' confidence and awareness of the exemption process.

SESA is satisfied with the amendments made to exemptions covering hazardous waste. The changes will bring Scotland in line with Community legislation and should reduce the risk of the UK being subjected to further infraction proceedings.

Further development of waste regulation:

SESA welcomes the Scottish Executive's intention to consider ways of changing the waste regulation regime. SESA suggests that SEPA progresses towards a risk-based approach to licensing and regulation and incentive-based charging schemes - such as the Environment Agency's EP OPRA system - whereby the charges imposed on companies relate to performance, reflecting the actual, rather than perceived risks to the environment. Such an approach would improve efficiency by focusing SEPA's resources on the licensed sites or waste activities which pose greatest risk to the environment and human health.

SESA would encourage the future development of waste regulation to be aligned with SEPA's vision of better regulation. SESA welcomes and shares SEPA's vision of risk-based decision making and proportionality as approaches which should strengthen SEPA's approach to inspection and enforcement activities.

Furthermore, a risk-based approach to regulation should permit the wider use of outputs from increasingly technologically advanced waste treatment processes. SEPA's regulatory approach should adapt to provide the necessary flexibility. If a site-specific risk assessment, for example, can demonstrate that a waste recovery activity, at specified levels of application is acceptable, there should be no limit on the area of land covered by one notification.

What administrative changes would be useful and compatible with legal obligations?

SESA's Members are currently faced with ever increasing administrative demands to supply information and complete data returns. Any proposal to reduce this burden, for example, greater use of electronic data returns, would be welcome.

However, SESA believes the administrative demands placed on our Members should reflect the environmental risk posed by a particular activity. SESA would expect greater transparency as to the requirement for a particular data request and would ask SEPA to demonstrate that the information was not available from another source. A cost benefit analysis of the data request would provide Members with greater confidence that the information sought was required for particular environmental benefit.

What changes to secondary legislation, compatible with Community law, would improve regulation of waste?

Changes to secondary legislation are welcome and these should be aligned with changes likely to be made to the Waste Framework Directive, as proposed by the Thematic Strategy on Waste Prevention and Recycling. As such secondary legislation should be amended or introduced to reflect the greater provision towards standards. Standards should be applied to environmental criteria for the determination of when a waste ceases to be a waste.

SESA believes that it is vital that there are robust standards for compost. Standards help to build confidence in end-users and also provide a further means by which regulation can be carried out. Standards also provide certainty as to suitability of composted materials for particular applications.

Current standards for compost apply only to high grade composts destined for sensitive applications, whereas SESA advocates the need for a range of standards covering different grades of composted materials for application on different types of land. For example, lower grade composts could justifiably be utilised in the remediation and restoration of contaminated sites.

Treatment standards for recycling facilities and recycled materials are required to ensure consistency of approach in environmental protection and market development through common identifiable standards. Secondary legislation should focus on biowaste as a priority.

Furthermore, efficiency thresholds should be applied to EfW facilities for the recovery of waste. Efficiency thresholds will allow the categorisation of a facility into waste disposal or waste recovery, thus focusing SEPA's regulatory approach.

Finally, the wider use of economic instruments should be incorporated into regulations.

How might arrangements to demonstrate that an applicant is a "fit and proper person" be simplified?

SESA believes change is required for the assessment of an applicant's technical competence.

Since the introduction of requirements for technically competent management, the waste management industry has undergone significant consolidation. Waste management companies are becoming larger multi-site environmental services firms, many of which operate internationally. Facilities are increasingly likely to be part of a portfolio of sites managed by larger operators rather than single site operations and this trend is expected to continue.

In this context, SESA believes that it would be more appropriate to assess technically competent management on the basis of both an operator's corporate competence and an individual employee's competence. This approach is one of greater sophistication and is more appropriate to a modern waste management industry than the individual CoTC approach, particularly as many aspects of site management are determined by corporate policy. For example, aftercare provision, monitoring procedures and engineering standards are developed at a corporate level and applied across a number of different facilities, often with little input from individual facility managers.

Companies must be able to demonstrate that they are competent to operate sites and strict liability for sites must remain a corporate responsibility. However, within the framework of corporate competence, individuals will still be required to demonstrate their own technical competence in order to manage waste management facilities. It is important to have technically competent managers charged with the effective management of sites.

Corporate competence should be demonstrated through competence in the management of the operations authorised in the permit or licence. For instance, independently verified environmental management systems, such as ISO14001 or EMAS, are useful tools enabling operators to demonstrate corporate competence and for SEPA to assess corporate competence.

Individuals should demonstrate technical competence by reference to qualifications available under one or more competence schemes. This could be demonstrated not only through CoTCs but also by other professional or industry led award schemes.

Any approach involving site attendance times should be retained only in case of failures in environmental performance.

Under the current system of assessing technical competence, an individual must obtain a CoTC, awarded solely by WAMITAB. However, many other vocational qualifications exist, and others are being developed by leading educational establishments and organisations. Many of these qualifications could be suitable as part of the assessment of an individual's technical competence.

What might be the conditions of a "generic" licence for a low-impact activities, and what are the kinds of low-impact activities which might benefit?
No comment

Suggestions for further changes to Schedule 3:

SESA is concerned about how the limits imposed by table 3C of paragraph 14 (small scale composting) will be measured, since there is no apparent requirement for such materials to be weighed upon delivery to a small-scale composting site operating under an exemption. Defining facilities in this way means that enforcing the limitations will be difficult, if not impossible.

SESA would express further concern that in-vessel composting facilities should be exempt from the Regulations. Contained systems usually have annual capacities far exceeding those laid down in Table 3C and are far more complex than traditional windrow composting. Therefore, we believe that the regulation of in-vessel systems would be more appropriate under the terms of a waste management license.

We would welcome clarification on whether small-scale composting sites will be subject to SEPA's position on the siting of composting facilities that includes a presumption against permitting sites within 250 metres of a sensitive receptor.